

**HIGH COURT OF TRIPURA
AGARTALA**

Crl.Rev.P.32 of 2023

Shri Dilip Debnath

.....**Petitioner(s)**

Versus

State of Tripura

.....**Respondent(s)**

For Petitioner(s) : Mr.D. Datta, Advocate.

For Respondent(s) : Mr. S. Ghosh, Addl. PP.

Date of hearing & delivery
of judgment and order : 27.06.224
Whether fit for reporting : No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT & ORDER (ORAL)

Heard Mr. D. Datta, learned counsel for the petitioner. Also heard Mr. S. Ghosh, learned Addl.PP learned counsel representing the State.

[2] This criminal revision petition is filed under Section 397 of Cr.P.C. read with Section 401 of Cr.P.C. against the judgment dated 04.05.2023 passed in Criminal Appeal No.30 of 2019 by the learned Sessions Judge, South Tripura, Belonia.

[3] The brief facts of the case of the petitioner as reflected in the impugned order of the Court below are that on 30.01.2014 at about 4 p.m. the informant Sankar Malakar along with his son Samarjit Malakar were returning from Latua Tilla market and got down from a vehicle in front of their house at Kusharghat and at that time, one Commander Jeep bearing No. TR-03-2898 coming in a rash and negligent manner from Baikhora side, dashed the son of the informant. Due to the accident, the son of the informant sustained severe injuries on his person and he was immediately shifted to Baikhora PHC for treatment and from there, he was referred to TSD Hospital, Udaipur. The attending medical officer of TSD Hospital, Udaipur considering the seriousness of his injuries referred him to AGMC & GBP Hospital, Agartala wherein he succumbed to the injuries. It was also alleged that after the accident the driver of the offending Commander Jeep fled away from the spot leaving

the injured. Thereafter, the informant lodged the case. On the basis of the FIR, police registered Baikhora P.S. Case No. 05/2014 under Sec. 279/304(ii) of IPC and after investigation finding prima facie case, charge-sheet was filed 15.04.2014 vide C/S No. 17/2014 under Sec. 279, 304(ii) of IPC and section 187 of M.V. Act against accused Sri Dilip Debnath. After taking cognizance and supplying the prosecution copies to the accused person charges under Sec. 279 and 304-A of IPC and section 187 of M.V. Act have been framed against accused Sri Dilip Debnath, petitioner herein. The accused-appellant denied the charges and claimed to be tried.

[4] During trial prosecution examined as many as eleven witnesses and the trial court after evaluating the evidence, convicted the appellant for the offence under Sec. 279 and 304-A of IPC and section 187 of M.V. Act. Being aggrieved and dissatisfied with said decision of the learned trial court, the petitioner preferred appeal before the Appellate Court (District & Sessions Judge, South Tripura, Belonia) being case No. Criminal Appeal 30 of 2019 but the same was dismissed by the order dated 04.05.2023 in following manner:

".....18. So, in the totality of the evidence of the witnesses, I find no impropriety in the judgment of learned trial Court justifying any interference from this Court. I find no merit in the appeal. Thus, the appeal is dismissed. The convict-appellant is hereby directed to surrender before learned trial Court within one month from today to undergo the sentence.

19. Send back the L.C. record along with a copy of this judgment."

[5] Aggrieved by the impugned order dated 04.05.2023 passed by the learned Court below, the petitioner has approached this Court seeking following reliefs:

- "a) Admit this revision petition;
- b) Call for the records;
- c) Issue notice upon the respondent;

After hearing of this parties and on perusal of the evidence on record be please enough to set aside/quash the impugned judgement dated 04/05/2023 passed in Criminal Appeal No. 30 of 2019 by the L.d. Session Judge, South Tripura, Belonia where by Ld. Appellate Court dismissed the appeal and upheld the judgement and order passed by the Ld. Trial Court whereby Ld. Trial Court

convict the petitioner U/S 304 (A) of IPC sentencing him to suffer SI for 1(one) year and to pay a fine of Rs. 2,000/-, in default to suffer S I for 2 (two) months for the offence punishable u/s 304 -a of IPC and also sentencing the petitioner to pay a fine of Rs. 1,000/- for the offence punishable u/s 279 of IPC, in default to suffer S I for 20 (twenty) days and he is further sentenced to pay of Rs. 500/- for the offence under section 187 of M. V. Act in default to suffer for ten days.....”

[6] Mr. D. Datta, learned counsel for the petitioner argues that learned Appellate court has committed manifest error while passing the impugned judgment and upheld the order of the learned Trial court. He also submits that learned Trial court as well as learned Appellate court only on presumption and without applying judicious mind convicted the petitioner mechanically which is very unfortunate. He, therefore, urges this Court to set aside the order impugned passed by the appellate court below.

[7] On the other hand, Mr. S. Ghosh, learned Addl. PP appearing for the State opposes the said contention made by the learned counsel of the petitioner and submits that there is not infirmity in the impugned order passed by the learned Court below.

[8] Having heard the learned counsel appearing for the parties and without going into the merits of the case, this Court is of the opinion that the sentence as awarded by the learned Court below to the petitioner herein under Section 304-A of IPC be reduced to six months instead of one year. Hence, the sentence awarded to the petitioner is reduced to six months instead of one year. However, all other aspects of the order impugned shall remain unaltered.

With the above direction, the instant petition is disposed of. As a sequel, miscellaneous application(s), pending if any, shall also stand closed.

JUDGE